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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2001 Senate Bill 40</b>	<b>Senate Substitute Amendment 1</b>
Memo published: March 6, 2001      Contact: Richard Sweet, Senior Staff Attorney (266-2982)	

*Senate Bill 40* requires the Department of Agriculture, Trade and Consumer Protection (DATCP) to promulgate rules for the registration of telephone solicitors. The bill defines “telephone solicitor” as a person, other than a nonprofit organization, that employs or contracts with an individual to make a telephone solicitation. The term “nonprofit organization” is defined as a corporation, association, or organization exempt from taxation under section 501 (c) (3) of the Internal Revenue Code (e.g., organizations operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes). DATCP is required to promulgate rules that require an individual who makes a telephone solicitation on behalf of a telephone solicitor to identify the telephone solicitor and the telephone solicitor’s registration number at the beginning of the telephone conversation.

The bill requires DATCP to establish a nonsolicitation directory that includes listings for residential telephone customers who do not wish to receive telephone solicitations from telephone solicitors. A residential customer must notify DATCP on a biennial basis if he or she wishes to continue to be listed in the nonsolicitation directory.

The bill provides that a telephone solicitor may not require an employee or contractor to make a telephone solicitation to a person in Wisconsin unless the telephone solicitor is registered with DATCP. In addition, a telephone solicitor may not make a telephone solicitation, or require an employee or contractor to make a telephone solicitation, to a residential customer if the nonsolicitation directory that is provided to the telephone solicitor includes a listing for the residential customer.

*Senate Substitute Amendment 1* makes the following changes to the bill:

1. The substitute amendment expands the definition of “nonprofit organization” to include a corporation, association, or organization described in section 501 (c) (3), (4) or (5) of the Internal Revenue Code. Section 501 (c) (4) organizations are certain nonprofit civic leagues or organizations or certain local associations of employees. Section 501 (c) (5) organizations are labor, agricultural or horticultural organizations.

2. The substitute amendment requires DATCP to update the nonsolicitation directory on a semi-annual basis and to make it available to registered telephone solicitors by electronic transmission. Upon request of a registered telephone solicitor, DATCP must also provide a printed copy of the nonsolicitation directory to the telephone solicitor.
3. The substitute amendment requires a telephone solicitor or employee or contractor of a telephone solicitor that makes a telephone solicitation to a nonresidential customer to provide, upon request, the mailing address for notifying the telephone solicitor that the nonresidential customer does not wish to receive telephone solicitations. Upon receipt of such a notice, the telephone solicitor may not make such a telephone solicitation to the nonresidential customer.
4. The substitute amendment provides that a nonprofit organization or employee or contractor of a nonprofit organization may not make a telephone solicitation to a residential customer if the residential customer has provided notice by telephone or mail to the nonprofit organization that the residential customer does not wish to receive telephone solicitations. A nonprofit organization may not require an employee or contractor to make telephone solicitations that violate this requirement.
5. The substitute amendment creates an exception to the prohibitions on telephone solicitations if: (a) the telephone solicitation is made to a recipient in response to the recipient's express written request for the telephone solicitation; or (b) the telephone solicitation is made to a recipient who is a current client of the person selling the property, goods or services or receiving the contribution or pledge.
6. The substitute amendment deletes the requirement that the person making the telephone solicitation identify the telephone solicitor's registration number at the beginning of the conversation. Rather, the person would have to identify the telephone solicitor and, if different from the telephone solicitor, the person selling the property, goods or services or receiving the contribution or pledge.
7. The substitute amendment specifies that the requirement for telephone solicitors to register with DATCP applies to telephone solicitors who require employees or contractors to make a telephone solicitation to a residential customer.

The Senate Committee on Privacy, Electronic Commerce and Financial Institutions recommended adoption of Senate Substitute Amendment 1 by a vote of Ayes, 4, Noes, 1, on February 28, 2001. Passage of Senate Bill 40, as amended, was recommended by that committee on a vote of Ayes, 3, Noes, 2, on February 28, 2001.

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